IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

Cr. Appeal 593 of 2000

Decided on 03.12.2007

State of H P .....Appellant

Versus

Atma Ram ..... Respondent

Coram:

The Hon'ble Mr. Justice Surinder Singh.J.

Whether approved for reporting ?[1]
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For the appellant Mr.V.K.Verma,Additional Advocate General.

For the Respondent None.

Surinder Singh, J.(oral)

Respondent was tried and acquitted for violation of Rule 9 of H. P. Forest (Sale of Timber Rules) 1969, which is punishable under Rule 14 of the said Rules.

The State has felt aggrieved and dissatisfied by the impugned judgment of acquittal, passed by the trial court, as such filed the instant appeal.

In nut shell, the facts giving rise to this appeal are that the respondent herein, owns a

[1] ***Whether the reporters of Local Papers may be allowed to see the judgment ? yes.***

saw-mill, which is located in Mashobra. On 12.2.1996 ASI Rupinder was busy in the investigation of two cases, pertaining to the police station. On reaching saw-mill of the respondent they found 23 scants of deodar lying there. The respondent produced the register but the said Investigating Officer did not find entry of T.D.timber in the said register, which was required as per the rules. Thus, he sent a ruqua Ex.PW-1/A to the police station, for registration of the case, on the basis of which FIR Ex.PW6/A was formally registered. The saw-mill register as well as 23 scants of deodar were taken into possession. During investigation, Narain Dass and Nilam Parkash (PWs) produced T.D.Permits of the said timber but the police found infraction of Rule 9 of the said rules, accordingly presented a challan against the respondent in the trial court for trial.

Notice of accusation under the aforesaid Rule was put to the respondent but he pleaded not guilty and claimed trial.

To prove its case, the prosecution examined its witnesses and the respondent was also examined under section 313 of the Code of Criminal Procedure. His defence was that the said timber was

stacked there by the permit holders in his absence, when he had gone to his village and retuned on the day when the said timber was seized by the police from his saw-mill.

I have heard Shri V.K.Verma, learned Additional Advocate General for the appellant-State and gone through the evidence on record carefully.

According to Narain Dass (PW1) on 10.2.1996 he had taken his T.D.timber to the said saw mill but the respondent was not present there. It was seized by the police on 12.2.1996. Later, it was got released by him through the court. Nilam Parkash (PW4) has also made a similar statement, that on 10.2.1996 he had also stacked two T.D. scants in the saw mill in absence of the respondent, which were subsequently taken into possession by the police on 12.2.1996. Further according to him, he had produced T.D.Permit to the police. Statements of the aforesaid witnesses have been corroborated by the Shri Daljeet Singh Daulta, Range Officer (PW8). According to him, the timber which was seized by the police had T.D.mark thereon and the respondent had also told the police that it was stacked in the absence of the respondent in his saw mill. In his statement, recorded under section

313 Cr.P.C. the respondent has also given a detail explanation, as aforesaid that he was away to his village for about 3-4 days and on his return on 12.2.1996 police took into possession the saw mill register and the timber which was stacked there. When he reached on the spot, there was no time left with him to make an entry in the register because by then it was already seized by the police.

The trial court on the strength of the above evidence, came to the conclusion that the explanation given by the respondent was cogent and is also otherwise borne out from the evidence on record that the respondent had no knowledge of unloading of the scants by the aforesaid permit holders, in his depot and thus he could not have entered it in the register. In my opinion the aforesaid conclusion is not perverse but it is deducible from the record, therefore, the impugned judgment calls for no interference. The appeal is accordingly dismissed.

The respondent is discharged of the bail bonds, entered upon by him, during the proceedings of the trial at any stage.

December 3, 2007 (Surinder Singh),J.
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